

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3856 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

MARIAMMA PHILIP

Versus

THE STATE OF GUJARAT

Appearance:

MR RJ OZA for Petitioner

MR PREMAL JOSHI AGP for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 30/06/2000

ORAL JUDGEMENT

#. By filing this petition under Article 226 of the Constitution of India, the petitioner herein has challenged the action of respondent no.3, Annexure : F letter of termination dated 7.2.84. By Annexure : A, Soil Survey Officer - respondent no.3 requested the

Collector that the post of Typist which is vacant should be filled in as the department is required to have frequent communication with the World Bank. Vide letter dated 5.10.81, the Deputy Collector, Surat, pointed out to the Soil Survey Officer that the appointment is required to be made by the Central Pool and therefore, nothing can be done in the matter by his office. However, vide Annexure:C, the Soil Survey Officer issued an order of appointment. From the order it appears that the names were forwarded by the Employment Exchange and the petitioner was appointed on purely temporary/ad-hoc basis as a Typist with certain conditions. One of the condition was that after selection of a candidate by the Central Pool from the office of the Collector, the moment a candidate is allocated, the services of the petitioner shall be terminated without any notice in writing or without showing any cause in writing. Thus, the appointment of the petitioner was purely temporary and ad-hoc.

#. It appears that the candidates for the post of Typist including the petitioner appeared before the Central Pool for selection. Respondent no.3 called upon the petitioner to place before him the result of the test/interview. Though the application for the post of typist was forwarded to the office of the Collector in December, 1982 by the petitioner, however, the petitioner did not convey any information about the selection, and, therefore, the petitioner was called upon to place before Soil Survey Officer, information about the result. She was informed that her services shall be terminated if she has not been selected. It appears that vide Annexure : E, the petitioner addressed a letter on 31.1.84, requesting the Soil Survey Officer that she was called for interview on 19.6.83 at about 10.00 a.m. However, till date, she has not been informed whether she has been selected or not. She further stated that when in future, applications are called for, again she will submit an application. She further stated that in the appointment order, there was no reference that on failure to go through the test, her services will be terminated and therefore, her services cannot be terminated. Ultimately, in view of the fact that the petitioner was not in a position to place before the authority the outcome of the interview, her services were terminated by letter dated 17.2.84, Annexure : F to the petition.

#. Mr. Oza, learned counsel, appearing for the petitioner submitted that in view of Rule 33 of the Bombay Civil Services Rules, the petitioner's services could not be terminated. Rule 33 (A) makes it very clear

that the service of temporary govt. servant is liable to be terminated at any time by a notice in writing given to him by the appointing authority. Mr. Oza submitted that reading that rule, it is very clear that the petitioner has worked for a period of more than one year as a temporary govt. servant and therefore, the services can be terminated only in the manner provided therein.

#. It is required to be noted that when a person is appointed on ad-hoc basis, his appointment is not a regular appointment on temporary basis or permanent basis. When a person is appointed either as temporary govt. servant or permanent govt. servant, his appointment is to be made in accordance with the rules and regulations. It is required to be noted that the initial entry in the govt. service, if is other wise than in accordance with the rules and is made on ad-hoc basis, then in that case the rules will not apply. Reading the order of appointment of the petitioner, it is very clear that it was an appointment purely on ad-hoc basis. The petitioner did not enter the office of the Soil Survey Officer after passing through the test, which other candidates were required to go through. With a view to see that the work may not suffer, with a clear understanding, the petitioner was appointed on ad-hoc basis.

#. Mr. Oza submitted that in the letter of appointment, there was no condition that on failure to clear the test, the services of the petitioner shall be terminated. Reading the letter, it is very clear that on a typist being made available by the collector, the services shall be terminated. On behalf of the respondents, it is pointed out that the Collector allocated one Mr. Bharatkumar Ambalal Taylor, a candidate selected by the Selection Committee and it was directed that the said candidate be appointed to the post of Typist. The document in this behalf is also annexed with the affidavit-in-reply. In view of this, it is very clear that the services of the petitioner were rightly terminated. I find no substance in the present application and hence, the application stands rejected. Rule discharged.

pirzada/-